



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: DECEMBER 02, 2022

IN THE MATTER OF:

Appeal Board No. 625465 A

PRESENT: JUNE F. O'NEILL, MEMBER

The Appeal Board, on its motion pursuant to Labor Law § 534, has reopened and reconsidered Appeal Board No. 615665, filed August 13, 2021, which affirmed the decision of the Administrative Law Judge and sustained, effective May 18, 2020, the employer's objection that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause and overruled the initial determination holding the claimant eligible to receive benefits.

Our review of the record reveals that the case should be remanded to hold a hearing. The record was not sufficiently developed on the determination and the employer's objection. The parties should have another opportunity to submit additional testimony and other evidence on these issues and on the circumstances of how the claimant's employment ended. The Judge denied the claimant's request to produce Valerie Nesmith and Wendy Cowl, who the claimant contended would provide testimony and evidence concerning the behavior of the employer's administrator, Alaina Maley. The claimant should have the opportunity to produce these witnesses to testify.

In addition, the employer should produce Alaina Maley. Ms. Maley should be further questioned regarding the prior instances of her interactions with the claimant that the claimant contended were abusive.

The Judge should take any additional testimony and evidence to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Appeal Board and the Administrative Law Judge be, and the same hereby are, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing, upon due notice to all parties and their representatives; and it is further

ORDERED, that the claimant should produce Valerie Nesmith and Wendy Cowl; and it is further

ORDERED, that the employer should produce Alaina Maley; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

JUNE F. O'NEILL, MEMBER